other matters, and whether or not *Dartmouth College* v. *Woodward* was decided correctly, it is certainly in accordance with sound legal principles to hold that the Legislature has no right to barter away its power to establish such rules as may be reasonably necessary from time to time for the protection of the public morals against the evils of lotteries. As was remarked by Mr. Chief Justice Waite, in *Stone* v. *Mississippi*, *supra*, referring to lotteries: "Certainly the right to suppress them is governmental, to be exercised at all times by those in power at their discretion. Any one, therefore, who accepts a lottery charter does so with the implied understanding that the people, in their sovereign capacity and through their properly constituted agencies, may resume it at any time when the public good shall require, whether it be paid for or not. He has in legal effect nothing more than a license. . . ."

A NEW TRIAL FOR BRAM. — The Supreme Court of the United States has granted a new trial to Bram, first mate of the barkentine "Herbert Fuller," who was convicted a year ago of the murder of Captain Nash on the high seas. *Bram* v. *United States*, 18 Sup. Ct. Rep. 183. It will be remembered that after the murder the vessel put into the port of Halifax. Bram was taken into custody immediately upon landing, and was soon afterwards sent for by a police detective. At the detective's office he was stripped and searched; and in the course of the search a conversation took place which the detective described at the trial as follows: —

"When Mr. Bram came into my office I said to him, 'Bram, we are trying to unravel this horrible mystery.' I said, 'Your position is rather an awkward one. I have had Brown in this office, and he made a statement that he saw you do the murder.' He said, 'He could not have seen me. Where was he?' I said, 'He states he was at the wheel.' 'Well,' he said, 'he could not see me from there.' I said, 'Now, look here, Bram, I am satisfied that you killed the Captain from all I have heard from Mr. Brown. But,' I said, 'some of us here think you could not have done all that crime alone. If you had an accomplice you should say so, and not have the blame of this horrible crime on your own shoulders.' He said, 'Well, I think, and many others on board the ship think, that Brown is the murderer; but I don't know anything about it.'"

The detective stated at the trial that no influence on his part was exerted to persuade Bram one way or the other. His testimony as to Bram's answers was admitted; and because of its admission the Supreme Court has ordered a new trial.

A defendant is protected from having his own statements produced against him when they were induced by duress or promise of favor as touching the case on the part of one having authority in that respect; and the question to be considered is whether in the present case this rule can be applied. No threat or promise of favor was directly expressed by the detective's words. The only remark to which such a meaning could have been attributed was, "If you had an accomplice you should say so, and not have the blame of this horrible crime on your own shoulders." These words, however, are addressed merely to the moral sense; they offer no advantage, except perhaps a moral one. They make no threat; and they could hardly have been thought to do so even by the courts which decided the extreme cases early in this century. *Rex* v. *Thornton*, 1 Moo. C. C. 27.

The majority of the court, however, conceding that the strict meaning of the detective's words was neither to threaten nor to promise, finds in the circumstances of the case enough to warrant the conclusion that Bram was unduly influenced. While it may be presumptuous to dispute the correctness of this view, it seems that a reasonable interpretation of the facts might lead to a different conclusion. Nothing in the surrounding circumstances can be believed to have amounted to duress. No contention is made that Bram thought himself bound under penalty to speak; his position was such that he would naturally choose to speak in answer to the questions. He did so choose; but he was entirely at liberty to say nothing. The fact that he was being searched is immaterial; for the search was not used as a means for extorting a confession. It made no difference that he thought that his statement might tell for or against him; for even an express declaration by the detective that his words would be used against him would not have vitiated the confession. *Regina* v. *Baldry*, 2 Den. C. C. 430. Neither was there anything in the circumstances to make Bram misinterpret the detective's words and see in them a suggestion of favor. The circumstances, on the contrary, would rather have tended to put him on his guard, and to disincline him to imagine a promise of favor when none was expressed. The position taken by the court, must, therefore, be regretted; for by an extreme decision the verdict of a jury after a protracted trial is set at naught because of the admission of evidency which can have had but little weight.

THE PRESENCE OF AN ACCUSED PERSON AT HIS TRIAL. — In a recent trial for burglary in one of the English Assize courts the prisoner gave an unexpected turn to affairs by suddenly leaping out of his place and endeavoring to make an assault upon the judge conducting the trial. He was seized and returned to his position, and on the following day was brought into court in fetters. He persisted, however, in conduct so vociferous and offensive that the judge finally ordered that he should be removed from the court-room and that the trial should proceed without him.

The disposition of the common law to give to those accused of crime every reasonable advantage has often been commented upon. One of the most ancient examples of this is the right of a prisoner to be present at his trial if accused of anything more than a misdemeanor. So stringent has the law been in this particular that if at any time during the trial the prisoner was absent, the trial was either absolutely dropped or at least adjourned until his return. (Foster C. L. 76; 1 Ld. Raymond, 267.) The reason that originally underlay this requirement, in the days when every felony was punishable by death, was twofold. That it was a real, tangible advantage to the prisoner to be present and see that every possible effort was made in his behalf is manifest. It was no less an advantage to the State that he should do so. While it is for its interest that crime should be punished, it is equally for its interest not to lose its citizens if good reasons could be adduced for preserving them. Under these circumstances it naturally followed that the prisoner could not, even if he chose, permit his trial to go on in his absence. The State, as an interested party, had the right to compel him to be present and do all in his power to defend himself. At the present time much of the force of these reasons has disappeared. The usual punishment for felony is no longer death, but